

George F. Ogilvie III (NSBN #3552)  
Amanda C. Yen (NSBN #9726)  
McDONALD CARANO LLP  
2300 W. Sahara Ave, Suite 1200  
Las Vegas, NV 89102  
Telephone: 702.873.4100  
Fax: 702.873.9966  
gogilvie@mcdonaldcarano.com  
ayen@mcdonaldcarano.com

Steven L. Procaccini (*Pro Hac Vice*)  
Chris Ellis Jr. (*Pro Hac Vice*)  
NISSENBAUM LAW GROUP, LLC  
2400 Morris Avenue, Suite 301  
Union, NJ 07083  
Telephone: 908-686-8000  
Fax: 908-686-8550  
sp@gdnlaw.com  
ce@gdnlaw.com

*Attorneys for plaintiff Todd VanDeHey*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

TODD VANDEHEY, an individual,  
  
Plaintiff,

v.

REAL SOCIAL DYNAMICS, INC., a Nevada  
corporation; NICHOLAS KHO, an individual;  
OWEN COOK, an individual,  
  
Defendants.

CASE NO.: 2:17-cv-02230-JAD-NJK

**DECLARATION OF STEVEN L. PROCACCINI, ESQ. IN  
SUPPORT OF PLAINTIFF'S EMERGENCY OMNIBUS  
MOTION (1) FOR EXPEDITED DISCOVERY AND (2) TO  
AMEND THE COMPLAINT.**

I, STEVEN L. PROCACCINI, declare as follows:

...

...

**MCDONALD CARANO**  
2300 WEST SAHARA AVENUE, SUITE 1200 • LAS VEGAS, NEVADA 89102  
PHONE 702.873.4100 • FAX 702.873.9966

1           1.       I am of counsel to the Nissenbaum Law Group, LLC, co-counsel for Plaintiff in  
2       the above-captioned litigation. I am admitted *pro hac vice* to the United States District Court for  
3       the District of Nevada.

4           2.       This declaration is made of my own personal knowledge except where stated to  
5       be upon information and belief, and as to those matters, I believe them to be true, and, if called  
6       as a witness, I would competently testify thereto.

7           3.       On August 22, 2017, plaintiff Todd VanDeHey (“Plaintiff”) filed a Verified  
8       Complaint against Defendants Real Social Dynamics, Inc., Nicholas Kho and Owen Cook  
9       (collectively, the “Defendants”) for, *inter alia*, their unauthorized and *ultra vires* acts relating to  
10      Valentine Life, Inc. *See* ECF No. 1.

11                   **Plaintiff Learns That His Personal Email Account and a PayPal Account are**  
12                   **Hacked, Necessitating Amending the Complaint and Expedited Discovery.**

13           4.       After filing the Verified Complaint, on or about September 11, 2017, Plaintiff  
14       became aware that unknown defendants John Does 1 through 10 and ABC Companies 1 through  
15       10 (collectively, the “Unknown Defendants”), who may or may not be related to the identified  
16       Defendants, improperly and without authorization accessed Plaintiff’s personal Gmail email  
17       account “tvandehey@gmail.com” (“Personal Email”) and PayPal account associated with the  
18       email address “todd@valentinelifelife.com” (“PayPal Account”).

19           5.       Plaintiff seeks to name the Unknown Defendants as defendants in the instant  
20       litigation and assert certain causes of actions against them as outlined in the Proposed Amended  
21       Complaint. A true and accurate copy of the Proposed Amended Complaint is attached to the  
22       Emergency Omnibus Motion (1) For Expedited Discovery and (2) To Amend The Complaint as  
23       Exhibit 2.

24           6.       Information with respect to the identities of the Unknown Defendants are  
25       currently in the possession, custody or control of Google Inc., Microsoft Corporation, Verizon  
26       Communications, Verizon Wireless and PayPal Holdings, Inc. Declaration of Todd VanDeHey  
27       dated September 25, 2017; Declaration of Ondrej Krehel dated September 25, 2017.

28       ...

1           7.       Therefore, Plaintiff seeks expedited discovery in the form of third-party  
2 subpoenas to the above-referenced entities in order to ascertain the identities of the Unknown  
3 Defendants and to ensure the Unknown Defendants preserve evidence related to Plaintiff's  
4 claims. True and accurate copies of the proposed subpoenas are attached hereto as **Exhibit A**.

5           **Plaintiff Has Requested Defendants Provide Information With Respect to Whether**  
6           **They Have Obtained Information from Plaintiff's Personal Email Breach.**

7           8.       On or about September 11, 2017, Plaintiff, by and through counsel, forwarded a  
8 letter to the identified Defendants, by and through counsel, informing the identified Defendants,  
9 *inter alia*, about the unauthorized access to the Personal Email and requested if Defendants had  
10 obtained access to the Personal Email or other personal information of Plaintiff's. A true and  
11 accurate copy of the September 11, 2017 correspondence is attached hereto as **Exhibit B**.

12           9.       On or about September 12, 2017, Defendants, by and through counsel, responded  
13 to the September 11, 2017 correspondence. A true and accurate copy of Defendants' September  
14 12, 2017 correspondence is attached hereto as **Exhibit C**.

15           10.      In their letter, Defendants do not deny if they had obtained access to the Personal  
16 Email or Plaintiff's other personal information.

17           11.      Defendants merely indicated that they "have no information beyond [Plaintiff's]  
18 allegations to draw a conclusion as to the statements within [Plaintiff's] letter."

19           12.      On or about September 22, 2017, Plaintiff, by and through counsel, forwarded a  
20 second letter to Defendants, by and through counsel, again requesting they inform whether, *inter*  
21 *alia*, Defendants had obtained access to the Personal Email or Plaintiff's other personal  
22 information. A true and accurate copy of the September 22, 2017 correspondence is attached  
23 hereto as **Exhibit D**.

24           13.      To date, Defendants have failed to respond to Plaintiff's September 22, 2017  
25 correspondence.

26           ...

27           ...

28           ...

1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct.

3 DATED: September 28, 2017

4 /s/Steven L. Procaccini  
5 Steven L. Procaccini  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**McDONALD & CARANO**  
2300 WEST SAHARA AVENUE, SUITE 1200 • LAS VEGAS, NEVADA 89102  
PHONE 702.873.4100 • FAX 702.873.9966

**INDEX OF EXHIBITS**

<b><u>Description</u></b>	<b><u>Exhibit No.</u></b>
Proposed Third-Party Subpoenas	A
September 11, 2017 letter to MGA Law	B
September 12, 2017 letter from MGA Law	C
September 22, 2017 letter to MGA Law	D

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 28th day of September, 2017, a true and correct copy of the foregoing **DECLARATION OF STEVEN L. PROCACCINI, ESQ. IN SUPPORT OF PLAINTIFF'S EMERGENCY OMNIBUS MOTION (1) FOR EXPEDITED DISCOVERY AND (2) TO AMEND THE COMPLAINT** was electronically filed with the Clerk of the Court by using CM/ECF service which will provide copies to all counsel of record registered to receive CM/ECF notification.

/s/ Jelena Jovanovic

An employee of McDonald Carano LLP